REPRESENTATIVE FOR
CHILDREN AND YOUTH

Issue Report

Medical Assessments in B.C.'s Youth Justice System

September 2008

REPRESENTATIVE FOR
CHILDREN AND YOUTH

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The appendices are available with the electronic version of this report on the RCY website, www.rcybc.ca.

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Issue Report
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1. Introduction

This report outlines the findings and recommendations of the Representative for Children and Youth following a review of clinical practices related to Section 34 court-ordered assessments under the federal *Youth Criminal Justice Act*.

Specifically, this relates to physical examinations of youth undertaken by the Inpatient Assessment Unit (IAU) of the provincial Youth Forensic Psychiatric Services (YFPS), within the Ministry of Children and Family Development (MCFD).

Reason for Review

The mandate of the Representative for Children and Youth (RCY) includes advocacy and systemic review. In following up on a letter that raised concerns about treatment of females at a youth custody centre and subsequent advocacy involvement with those youth, circumstances and issues became apparent which had broader and ongoing implications for a significantly vulnerable group of British Columbia youth.

The Representative determined that an independent and thorough review of practices related to court-ordered physical examinations of youth was warranted.

The Representative's Mandate

Under Section 6(b) of the *Representative for Children and Youth Act* the Representative is responsible for monitoring, reviewing, auditing and conducting research on the provision of a designated service, making recommendations to improve the effectiveness and responsiveness of that service and commenting publicly on any of these functions.

A "designated service" is any of the following services or programs for children and their families provided under an enactment or provided or funded by government:

- services or programs under the *Adoption Act*, the *Child, Family and Community Service Act*, the *Community Living Authority* and the *Youth Justice Act*
- early childhood development and services
- mental health services for children
- addiction services for children
- services for youth and young adults during their transition to adulthood
- additional services or programs prescribed by regulation under the *Representative for Children and Youth Act*.

Acronyms

MCFD: Ministry of Children and Family Development

YFPS: Youth Forensic Psychiatric Services is an MCFD program that provides court-ordered assessment and treatment services for youth on a residential (inpatient) or community (outpatient) basis.

IAU: The Inpatient Assessment Unit is part of YFPS and provides medical and psychological assessments of youth who are placed in custody for the purpose of undergoing assessment.

Background and Timelines

In June 2007, the Representative for Children and Youth received a letter that was also sent to the Director of YFPS. The letter was from Justice for Girls, a non-profit organization providing advocacy services for girls involved with the criminal justice system. The letter alleged that several female youth had been inappropriately touched during chaperoned physical examinations at the IAU in Burnaby.

As a result of this allegation:

- The Representative reported a concern to MCFD under the *Child, Family and Community Services Act* (Section 14, duty to report need of protection) and suggested the RCMP be informed for the purposes of investigating the matter. It is not within the RCY's mandate to investigate allegations of assault.
- MCFD notified the RCMP of the allegations and the RCMP launched a criminal investigation. In August 2007, the RCMP notified MCFD officials that the investigation was complete, and they would not recommend to Crown counsel that criminal charges be laid.
- Following the conclusion of the RCMP investigation, MCFD began its own assessment of the issues arising from the letter:
  - MCFD undertook its own internal investigation and also commissioned an objective investigation of the allegations. The objective investigation was carried out by a physician from the BC College of Physicians and Surgeons 'Committee on Office Medical Practice Assessment'. Both investigations concluded with no recommendations for action or disciplinary proceedings against the examining physician.
  - MCFD also examined clinical assessment practices at IAU to determine:
    - the appropriateness and relevance of conducting physical examinations (in particular breast and genital exams) of young persons admitted to the IAU, and
    - the appropriateness of procedures for obtaining the consent of youth in the context of court-ordered assessments.
- At the same time as the MCFD investigations and review processes were underway, the Representative undertook her own independent review of clinical practices and procedures for obtaining consent at IAU.

Throughout the course of MCFD's investigations of the allegation and review of clinical practices, the ministry kept the Representative apprised of progress and provided drafts of reports. The two MCFD investigation reports and the MCFD report on clinical practices are posted, along with this report, on the Representative's website, at www.rcybc.ca.

Representative's Review

The comprehensive review undertaken by the Representative involved:

- research and analysis of relevant background information, including policies, procedures and standards of YFPS and Youth Custody Services relating to physical examinations
- analysis of reports prepared or commissioned by MCFD
- consultation with IAU staff, staff of Youth Custody Services and other relevant parties, and
- seeking the advice of an independent panel[1] to the Representative on appropriate and best clinical practice and standards, policies and procedures for physical examinations of youth in custody generally and at the IAU in particular.

Timelines of Investigations and Reviews

Jun-07	Jul-07	Aug-07	Sept-07	Oct 07 - May 08				Jun-08	Jul-08	Sept-08
Incident reported	Terms of Reference for MCFD review established	RCMP investigation complete - No charges	Terms of Reference for RCY review established	Investigations and reviews undertaken				RCY consultation with Independent Panel	RCY report prepared	RCY report released
				January - MCFD independent investigation complete	March - MCFD management investigation complete	April - MCFD review of clinical practices complete	May - RCY background review and analysis complete			

2. Youth Subject to Court-Ordered Assessments

Vulnerabilities of Youth Involved

Youth entering IAU do so in handcuffs, as prisoners in the youth justice system. Many come from circumstances that most British Columbians would never experience. More often than not, they are living outside of the parental home. This is either because they are youth in care or because their family relationships are no longer intact. Many youth who enter the IAU have complex needs, and histories that may include family and home life instability, homelessness, significant substance abuse problems, or past emotional or physical neglect or maltreatment.

Significant numbers of youth entering IAU also have neurodevelopmental disabilities such as FASD and/or serious physical and mental health needs that in many cases have not been met.

[1] The *Representative for Children and Youth Act* authorizes the Representative to retain consultants, experts and specialists to enable or assist the Representative to exercise the powers or perform the functions or duties under the Act.

Youth arrive at the IAU charged with or convicted of a criminal offence and a court has ordered that a "medical, psychiatric and/or psychological report" be conducted. A youth justice court requires a formal medical assessment when the court believes there may be medical or mental health issues affecting the youth. In order to render a sentencing decision or other determination affecting the youth's future, the court may require more information about these issues. Court decisions obviously have a large impact on a young person's life, and the information provided in an assessment can influence outcomes such as potential release of the youth, duration of custodial sentence and length and terms of community supervision. This is a very stressful time for youth in such circumstances, particularly for those without adult support, living outside the parental home or in the care of the state.

The IAU is a place of temporary detention and operates as a secure facility. Strong security provisions are in place. It is a co-educational facility that always has a female staff member on duty, but still has a high ratio of males on staff. This presents particular concerns for female youth and for youth of either gender who have experienced sexual abuse.

Human Rights Context

Youth in custody are within a youth criminal justice system, not an adult criminal justice system. This distinction is important. The Representative notes that the Supreme Court of Canada has recently reaffirmed[2] that the system must be designed for young people as enshrined in the *Youth Criminal Justice Act* and under the international obligations Canada has as a signatory to the United Nations Convention on the Rights of the Child. The human rights dimension is important as it places additional responsibilities on the state. These include ensuring that procedures followed are rehabilitative and not punitive, and that officials and systems are sensitive to the child development needs of youth, including their lack of maturity.

This human rights dimension is of extreme importance when doing medical or psychological assessments on youth who exhibit needs so evident that they trigger these court-ordered assessments. Utmost sensitivity and respect for the needs of youth are required, and care must be taken to support youths through a difficult period in their lives. Consent, least intrusive measures and concern for the health and well-being of youth should anchor the system, to give full expression to human rights.

The youth justice system is a system of support for young people, primarily aimed at their rehabilitation because their development towards adulthood is not yet complete. The vulnerabilities of these troubled youth coming into a criminal justice setting demand a deep sensitivity to their circumstances and needs, and a full commitment to human rights protections under Canadian and international law, in policy and practice.

[2] Excerpts - R. v. D.B., 2008 SCC 25
http://scc.lexum.umontreal.ca/en/2008/2008scc25/2008scc25.pdf

3. Youth Justice System and Court-Ordered Assessments

B.C.'s youth justice system deals with youth age 12 to 17 years who have committed offences under provincial and federal law. The federal *Youth Criminal Justice Act* establishes the legislative framework for criminal offences. B.C.'s *Youth Justice Act* establishes sanctions for provincial offences and sets the framework for the youth justice services system for the province. [Appendix A contains additional information on B.C.'s youth justice system. The appendices are available with the electronic version of this report on the RCY website, www.rcybc.ca.]

Under Section 34 of the *Youth Criminal Justice Act*, when a youth is charged with a criminal offence, a youth justice court judge may order a "medical, psychiatric and/or psychological report." Section 34 assessments must be undertaken by a "qualified person" – qualified by provincial law to practice medicine or psychiatry or to carry out psychological examinations or assessments. In B.C., virtually all Section 34 assessments are referred by youth justice courts to YFPS, where an identified qualified person is responsible for providing the entire Section 34 report.

The court may order the assessment to be conducted on either an inpatient (custody) or outpatient basis. Custody can only be ordered by the court, where:

- the court is satisfied that, on the evidence, the detention of the young person in custody is necessary to conduct the assessment, or
- on the evidence of a qualified person, the detention of the young person is desirable to conduct the assessment, and the young person consents to the custody, or
- the young person is required to be detained in custody in respect of another matter or by virtue of a provision of the *Criminal Code* (Section 34(4) YCJA).

The period of custody for a young person remanded into custody for a Section 34 assessment cannot exceed 30 days.

The majority of Section 34 assessments are ordered on an outpatient assessment basis at eight YFPS outpatient clinics located across B.C. In fiscal year 2007/08, 391 assessments were undertaken by YFPS (256 at outpatient clinics and 135 on an inpatient basis at IAU[3]).

In practice, only the most severe cases of highly vulnerable and unstable youth would be ordered to IAU for an inpatient Section 34 assessment. According to data provided by YFPS, youth remanded for an inpatient assessment are more likely to have committed a violent crime or other crimes, are more likely to have been subject to abuse, and are more likely to suffer from a mental illness or disorder than youth ordered assessed on an outpatient basis. A high proportion of youth remanded for inpatient assessment are living outside of the parental home, and are in care of government. In fiscal year, 2007/08, 44 per cent of Section 34 assessments for female youth were undertaken on an inpatient as opposed to an outpatient basis.

[3] An additional 577 non court-ordered outpatient assessments were undertaken for youth referred by Youth Custody Services or youth probation officers.

4. Court-Ordered Assessments Undertaken by YFPS

Nature of Assessment

Section 34 assessments by YFPS are undertaken by a multidisciplinary team of health care professionals led by the identified qualified person and team leader. The result of the assessment is a report to court intended to assist the court in making decisions about the youth.

Confidentiality is not guaranteed. Reports to court will include personal information about the young person and his or her family to assist the court in reaching a decision. The *Youth Criminal Justice Act* also provides for the release of information in the report to interested and concerned parties (such as parents) and for purposes of rehabilitation and safety. [Appendix B provides more detail on the YFPS Section 34 assessment standards and process. The appendices are available with the electronic version of this report on the RCY website, www.rcybc.ca.]

It is a standard practice of IAU that a Section 34 assessment includes a physical examination. IAU maintains that a physical examination, including the offer of a breast or genital exam, is an integral part of a comprehensive biopsychosocial* psychiatric examination of the whole child. According to IAU, breast and genital exams can reveal medical and health issues relevant to the overall assessment of the youth.

*** BIOPSYCHOSOCIAL**

Of, relating to, or concerned with the biological, psychological and social aspects, in contrast to the strictly biomedical aspects of disease.

A Section 34 assessment undertaken on an outpatient basis by a YFPS clinic does not usually include a physical exam. YFPS indicates that where a medical issue is revealed as part of obtaining the youth's history or where there is a presenting medical issue, the YFPS outpatient team leader in the Section 34 assessment may request information from the youth's family physician, or request that the youth undertake a medical exam by the youth's family doctor or through a medical clinic.

According to YFPS, the difference in practice is because IAU is a mental health facility designated under the *Mental Health Act* and is a designated hospital, and as such has a responsibility to undertake a physical examination of patients admitted to its care for a psychiatric assessment (similar to other hospital facilities).

In addition to fulfilling the requirements related to a Section 34 assessment, IAU health care professionals view the physical exam as an important opportunity to provide essential health care services to particularly vulnerable youth who may have previously had only occasional health care or no access to health care at all. This is compounded by the fact that some youth may have been living on the street, been victims of sexual abuse and assault, or have a sexually transmitted infection. These youth also often have drug or alcohol issues, or are pregnant and at risk of miscarriage without proper medical care.

IAU health care services can result in diagnosis and treatment of infections, addressing contraceptive needs, providing immunization updates, and possible discovery of more critical health issues needing attention.

There is a significant difference between youth remanded in custody to IAU and those subject to an assessment on an outpatient basis in an YFPS clinic. Under Section 8 of the *Mental Health Act*, the director of a designated mental health facility must ensure that each patient admitted is provided with "professional service, care and treatment appropriate to the patient's condition".

In addition to being a designated mental health facility, the IAU is a youth custody centre within the meaning of the *Youth Justice Act*. Accordingly, a youth ordered into custody at IAU is under the "care, custody and control" of a youth custody centre (Section 30). This gives rise to a duty of care, making it reasonable and appropriate for the centre to offer a physical examination for the health of the young person in custody.

Obtaining Consent

A youth subject to a Section 34 court-ordered assessment may decline to participate in any or all parts of the assessment, including the physical examination and the various components of the medical examination.

YFPS believes its consent procedures are generally valid and effective, supported by the fact that the majority of youth do not consent to a breast or genital exam. A review of files of female youth admitted between January 1, 2005 and June 28, 2007 for an inpatient assessment shows that 76 per cent (41 of 54) accepted the offer of a physical examination. Of these, only 10 consented to a breast exam and only five consented to a genital exam.

[Appendix C provides information on reasons for undertaking physical examinations, the IAU physical exam process and consent policy, procedures and practices. The appendices are available with the electronic version of this report on the RCY website, www.rcybc.ca.]

Concerns Identified with Current Practice and Consent Procedures

The MCFD investigations and review processes of the incident revealed areas of concern with clinical practice and consent procedures:

- variations and inconsistency of practice respecting privacy related to gowning and draping (some youth stayed in their unit clothes and underwear while some youth changed fully into a paper gown with a full cover sheet for examinations)
- some apprehension among female youth about a male physician, and concern regarding lack of choice about the gender of the physician performing the examinations
- varied understanding or lack of understanding about the reason for the examination, and
- concerns about whether youth understood they had the choice to decline a physical or breast or genital exam.

YFPS has demonstrated its recognition of the vulnerabilities of youth in these circumstances and since the complaint was made in June 2007, has strengthened its clinical practices and its procedures for seeking consent to address the identified issues. Section 6 outlines the changes in practice and procedures.

5. Standards and Practices – Other Facilities and Jurisdictions

Youth admitted to B.C.'s three Youth Custody Centres (distinct from IAU) in Burnaby, Victoria and Prince George receive an initial medical assessment but not a complete physical examination. This is done to identify medical issues needing attention and to set a baseline measurement of the youth's overall health. This screening is undertaken by a registered nurse. Physicians are on site at each centre on a regular basis during the week. Ongoing medical care is provided to ensure the health of youth in custody.

In undertaking other forensic or court-ordered assessments of youth, for purposes such as fitness or competency assessments under the *Criminal Code*, IAU follows the same policy as for Section 34 assessments – that a physical examination, including a breast and genital exam, is an integral part of the overall assessment.

Facilities in other jurisdictions providing forensic assessment or psychiatric services to youth[4] generally view a physical exam as part of their assessment process. Only Ontario's Adolescent Medicine division at the Hospital for Sick Children includes a genital exam as a routine part of a physical exam. Several facilities indicated that if there were a need to undertake a breast or genital exam, generally a separate follow-up appointment would be made with a physician or specialist, or through an external medical clinic.

[Appendix D includes a detailed summary of medical practices for Youth Custody Centres, other court-ordered assessment processes, and facilities and institutions in other jurisdictions, including a comparative table. The appendices are available with the electronic version of this report on the RCY website, www.rcybc.ca.]

6. Change in YFPS Policy and Practice

Three processes – MCFD's internal investigation of the incident, the independent investigation by the physician from the BC College of Physicians and Surgeons 'Committee on Office Medical Practice Assessment,' and the MCFD management review of clinical assessment practices – made recommendations for improving procedures relating to physical exams by IAU while the Representative's review was underway. These improvements were considered and assessed by the Representative in preparing this report.

It is understood, based on information obtained through its review of clinical assessment practices, that IAU has revised its practice "with respect to breast and pelvic examinations to be more consistent with the

[4] To avoid duplication of effort and redundant requests made of other institutions both provincially and extra-provincially, this section is based on information collected by MCFD for its review of comparable institutions, undertaken as part of MCFD's review of clinical practices.

majority of other facilities surveyed, i.e., such examinations are now routinely offered whenever clinically indicated, as determined by the examining physician."[5] While it appears that IAU will only offer the breast and genital exams at the physician's discretion when warranted, it is understood that this has not yet been incorporated formally into MCFD policy.

Other recommendations made, while the Representative's own review was underway, to strengthen and improve clinical practice and procedures have also been implemented or are in the process of being formally implemented. These include:

Admission, orientation and administrative procedures

- Renaming the 'Resident Rules Book' as the 'Resident Orientation Manual' and amending it to include additional information about the physical exam portion of the assessment process
- Clarifying the identification/professional designation of chaperons and other unit personnel through development of a staff identification model for the unit (i.e., posting of IAU staff pictures and roles on notice boards for residents).

Obtaining informed consent from youth

- Introducing separate "General Consent to Physical Examination" forms to be discussed and signed by clients consenting to the physical exam, with continued practice of verbal consent being obtained at every aspect of the physical exam process and documented in the physician's Progress Notes.

Physical examination procedures and clinical practices

- Ensuring that the examining physician be of the same gender as the client
- Addressing scheduling of physical exams to ensure adequate time for youth to settle into the IAU prior to the exam, and conducting the exam over more than one session when appropriate
- Addressing privacy issues, including draping during physical exams and improving the size and comfort of gowns worn during examinations
- Improving general comfort measures for youth undergoing a physical exam (providing for the client to change in their own bedroom prior to physical examination, staff to wear gloves as required, hands to be warmed as required, and ensuring the exam room is warm and comfortable)
- Clarifying the rationale for and benefits of breast and genital exams, including adoption of BC Cancer Agency guidelines, and providing staff and client education on breast health and genital health
- Improving physical examination procedures and related documentation.

5 British Columbia, Ministry of Children and Family Development, Provincial Services Division (April, 2008). *A Review of Clinical Assessment Practices at the Youth Forensic Psychiatric Services, Inpatient Assessment Unit*, p. 19.

7. Findings and Recommendations

With respect to the central issue of physical examinations, and the inclusion of a breast or genital examination as part of a Section 34 assessment, based on research, review and analysis of the issues, and the advice received from the Independent Panel, the Representative concludes that providing physical examinations of youth undergoing a court-ordered assessment are an important aspect of health care, and that breast and genital exams can be an important component of such exams. The Representative is supportive of the recent changes to IAU practice such that a breast or genital examination be conducted only in circumstances when such exams are warranted by medical evidence or clinically indicated.

The following recommendations on this matter are also consistent with the advice of the Independent Panel. (Appendix E contains the "Guiding Questions" considered by the Independent Panel. The appendices are available with the electronic version of this report on the RCY website, www.rcybc.ca.)

Formalizing Policy

It is clear that the MCFD investigations and assessment of clinical practices undertaken between October 2007 and April 2008 were valuable in identifying improvements in clinical practices and procedures at IAU. The Representative supports these enhancements to practice and believes they should be reflected in formal written policies where this has not already been done.

Recommendation #1
That MCFD reflect the change of practice formally, incorporating them into all relevant YFPS and IAU written standards of practice by October 2008.

Confidentiality

The Representative endorses a physical examination as an integral part of the Section 34 assessment process.

Given the public aspect of the Section 34 assessment report to the youth justice court, the Representative believes that measures should be taken to respect and maintain the personal privacy and dignity of the youth.

Recommendation #2
That MCFD Youth Justice adopt policies to require that results of the more personal components (breast and genital exams) be separated out and not be included in the report to court unless inclusion is essential for ongoing physical and mental health support.

Gender of Physician

Given that histories of vulnerable youth often include prior child abuse and trauma, youth who consent to a physical examination may feel particular vulnerability during physical exams by medical personnel.

As part of a Section 34 assessment at IAU, youth should be given the opportunity to choose the gender of the physician. Youth should also be given the opportunity to choose the gender of the chaperon who accompanies the youth during the physical examination.

Recommendation #3
That MCFD revise written policy by October 2008, to allow youth to choose the gender of the examining physician, and of the accompanying chaperon, if the youth has consented to a physical exam.

Medical and Health Needs of Youth in Custody

This report addresses a specific issue impacting a very vulnerable population of youth in our society. It underscores just one issue pertaining to this group of vulnerable youth – understanding their needs and circumstances, and providing sensitive medical assessments in a way that protects them. It is illuminating and somewhat disheartening that for many of these youth, the only time they will have access to such essential health services is when they are remanded to youth custody.

In the course of this review, significant issues regarding the health needs of youth in B.C.'s custody facilities became more apparent.

Research into the narrower issue of youth custody medical assessments made it abundantly clear to the Representative that in the bigger picture, this population has unmet medical needs.

These include mental health issues, post-traumatic stress and abuse concerns, and physical health issues of immediate and in many instances ongoing significance. Many vulnerable youth have neurodevelopmental disabilities such as fetal alcohol spectrum disorder, and many are children in care or on youth agreements living outside of a parental home.

Few of these youth are connected to family doctors, community living supports or health promotion information to improve their self-care and ability to seek assistance for better health during a crucial developmental period. Every effort must be made to support the health and well-being of youth in the centres and in the community.

While medical screening by a nurse upon admission to a youth custody facility is a valuable existing process and has been put in place largely because it is essential for the health and safety of those institutions, this is not a thorough enough process to meet the individual needs of the youth coming into those facilities.

Complete medical assessments by male and female physicians must be available at all youth custody facilities, with referrals to specialists as required and follow-up support from nursing specialists after release. These youth should leave the facilities with family doctors, better health information regarding self-care and health care supports, and direct links to the system of support. It is recognized that there will be practical limitations to the provision of enhanced medical services for youth who are remanded or sentenced to custody for only very short periods of time. However, effective policies to reduce barriers and serve at-risk adolescents must be part of a health strategy with clearer accountabilities.

For female youth in custody, specialized services should be provided to address the areas where the Representative has seen great vulnerability during this review, including:

- protection from sexually transmitted infections
- mental health and addictions supports
- health prevention and promotion support for young women regarding birth control, pregnancy, birth, post-partum support, and
- community resource links to ensure they are supported when they leave the facilities.

While the actual numbers of female and male youth in the youth justice system are small, the needs are significant. Given the crucial period of development they are in, a very strong opportunity to improve outcomes for youth in care exists if medical supports could be significantly enhanced in B.C. youth custody facilities.

Recommendation #4
That the Ministry of Health Services lead an initiative to plan and implement an improved system of health supports for youth while in custody, as well as post-custody in B.C., in collaboration with relevant health authorities and MCFD. The system of health supports should include comprehensive medical assessments, and medical and dental treatment to youth in custody in B.C., including transitional plans and supports on leaving custody. The Ministry of Health Services will be asked to report progress on this initiative in January 2009 and regularly thereafter until a suitable system of health supports is in place for these vulnerable youth.

A comprehensive report delving into all aspects of youth in custody in B.C. is under development by the Representative for Children and Youth. This report on medical assessments and the Representative's upcoming youth justice report underscore the need for all British Columbians to strive individually and as a community to achieve better outcomes for vulnerable young people involved in the youth justice system.

Acknowledgements

The Representative appreciates the efforts made by MCFD Youth Justice and its willingness to publicly release its final reports and allow reference to them in this report in order to provide a complete picture of the incident and its outcome.

Also of note is the high degree of professionalism demonstrated and the support and cooperation of staff at IAU, YFPS, Youth Custody Services and Provincial Services, MCFD, in responding to requests for information.

The Representative also appreciates the willingness of the officials at Justice for Girls to share information related to this review and their commitment to better supports for incarcerated girls and women.

Members of the Independent Panel

Dr. Jean Hlady

Dr. Hlady is a Clinical Professor in the Department of Pediatrics at the University of British Columbia's Faculty of Medicine. She is also a practicing pediatrician at BC Children's Hospital and has been the Director of the Child Protection Service Unit for 20 years, providing comprehensive assessments of children in cases of suspected abuse or neglect. Dr. Hlady also served on the Multidisciplinary Team for the Children's Commission.

Dr. Ruth Martin

Ruth Elwood Martin, MD, FCFP, is a Clinical Professor and the Lead Faculty for Residency Research with the UBC Department of Family Practice, and the Inaugural Director of the Division of Prison Health and Education (UBC/SFU/NVIT). She has worked part-time as a family physician in the medical clinics of BC Correctional facilities since 1994. She is a Vancouver Foundation Community-Based Clinician Investigator and her research activities include family medicine narrative, the HPV-FOCAL study (an evaluation of HPV-testing in primary screening of cervical cancer) and community-based participatory research with women inside and outside of prison.

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Issue Report

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2008

APPENDIX A

Youth Justice System in B.C.

Legislative Framework

There are two primary pieces of legislation that govern the youth justice system in British Columbia:

- the federal *Youth Criminal Justice Act* (YCJA) came into force on April 1, 2003 and provides the legislative framework for criminal offences committed by youth, and
- the British Columbia *Youth Justice Act* came into force on April 1, 2004 and deals with legal proceedings and sanctions for youth who commit provincial statute offences. The Act provides the legislative framework for youth justice services provided by MCFD.

Youth Justice Services

The youth justice system in British Columbia deals with youth aged 12 to 17 years who have committed offences under provincial and federal law.

MCFD's Provincial Services Division has two primary responsibilities in relation to youth justice services:

- *Youth Custody Services*

  This includes the provision of Youth Custody Centres, which are legally designated temporary detention and youth custody facilities to house:

  - young offenders who have been ordered by the court to serve a period of time in open or secure custody[1]
  - youth who have been ordered to be detained in custody pending further court appearances.

  Youth may be held in Youth Custody Centres for all types of offences, ranging from persistent property offences to serious violent offences. There are three Youth Custody Centres in B.C.: Victoria Youth Custody Services; Burnaby Youth Custody Services; and Prince George Youth Custody Services.

[1] Secure custody is intended for youth who have been found guilty of serious offences or for youth who have a persistent pattern of offending and cannot be reasonably supervised in a community setting or in open custody. Open custody is intended for youth who are not appropriate for placement in a community setting but who can manage effectively with less stringent controls and greater privileges within an open custody centre. The court determines if a youth will be placed in open or secure custody based on various factors, including seriousness of the offence, the youth's prior court history, previous behaviour while in custody and response to supervision in the community.

Youth Custody Services for female youth are provided at all three centres. The Burnaby centre features both open and secure living units for female youth while Victoria and Prince George have only open custody living units. In all three locations, female and male youth have separate living units. Burnaby has had these separate living units for some time, whereas Victoria and Prince George have only had them since May 2007.

In May 2008, Youth Custody Services adopted a programming policy requiring gender-specific programs, and only allowing cross-gender programming in exceptional circumstances.[2] As of June 1, 2008, female youth were supervised over 89 per cent of the time by female staff. Youth Custody Services' goal is to have 100 per cent gender-specific staffing by January 1, 2009.

Youth Custody Services has developed and is in the process of implementing a one-year strategic and action plan respecting the provision of services for youth in custody including programs, assessment practices and staff training.

- *Community Youth Justice Services*

  This includes the provision of a range of community-based programs and services to support the youth justice system in the province. Approximately 130 youth probation officers work in multidisciplinary teams in various communities across B.C. Such programs include:

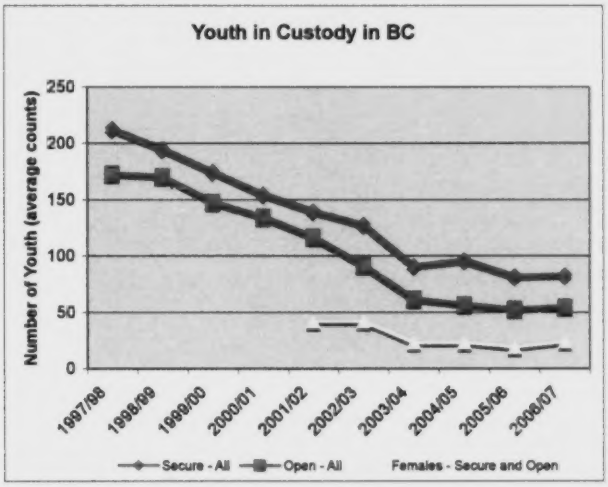
  - extrajudicial sanctions (formal diversion from court proceedings)
  - supervision and case management of youth on bail
  - peace bonds, probation, intensive support and supervision program orders
  - supervision in the community, conditional supervision, and reintegration leave from a youth custody centre, and
  - referral to community-based non-residential and residential programs.

Snapshot of Youth Involved in the Youth Justice System

Between 1997 and 2006, approximately 10 per cent of offenders charged with criminal offences in British Columbia were youth aged 12 to 17.

Of those youth who are sentenced to custody, the youth custody rate has fallen significantly since 1997/98. The following chart illustrates youth custody rates for secure custody (both male and females), open custody (male and females) and females (in both secure and open custody).

[2] One-time event or celebration held at a centre



(Source: Data provided by Ministry of Public Safety and Solicitor General and MCFD, Youth Justice Services)

Not all youth charged with a crime end up in custody. A range of sentencing options exist for youth found guilty of an offence. Between 2000/01 and 2006/07, the number of youth under Community Youth Justice supervision has also dropped significantly – from 4,041 to 2,338.

Youth Forensic Psychiatric Services

Although not considered organizationally a part of MCFD's Youth Justice Services, YFPS plays a significant role in B.C.'s youth justice system. YFPS provides both Inpatient and Outpatient services related to the assessment and treatment of youth referred to it from the Youth Justice Courts, youth probation officers and Youth Custody Centres.

YFPS Inpatient Services are provided by the IAU in Burnaby. The IAU is a designated mental health facility under the provincial *Mental Health Act* and is a designated place of temporary custody; it is also designated a hospital under the mental disorder provisions of the *Criminal Code of Canada* ("a place in the province that is designated for the custody, treatment or assessment of an accused in respect of whom an assessment order, disposition or placement decision is made").

As provided by the IAU, YFPS Inpatient Services include:

- court-ordered psychiatric and/or psychological assessment of youth remanded into custody of AU by the Youth Justice Court
- short-term transitional care and custody of youth found not criminally responsible by reason of mental disorder, and
- mental health services, including both assessment and treatment, to youth remanded or sentenced to Youth Custody Centres.

YFPS Outpatient Services are delivered through a series of clinics and a network of private contractors located throughout the province.[3] Outpatient clinics, like the IAU, are designated mental health facilities under the provincial *Mental Health Act* and provide a full range of court-ordered and court-related assessment and treatment services, including:

- court-ordered psychiatric and/or psychological assessments of youth residing in the community
- assessments or consultations of youth referred by a youth probation officer
- general and specialized mental health services for youths in the community or remanded or sentenced to custody
- specialized outpatient treatment programs dealing with sexual and violent offences
- community treatment and supervision of youth who have received a conditional discharge from the BC Board of Review, and
- local community consultation and training.

[3] There are eight B.C. outpatient clinics: Victoria, Vancouver, Langley, Nanaimo, Prince George, Kelowna, Kamloops and Campbell River.

APPENDIX B

YFPS Standards and Practices for Forensic Assessments

A significant piece of its work and a key function of YFPS is undertaking Youth Justice Court-ordered assessments under Section 34 of the YCJA.

YFPS describes a Section 34 assessment as a "forensic assessment" – a process whereby a multidisciplinary team of health care professionals led by the identified "qualified person" and team leader conduct a comprehensive assessment of the individual youth and his or her family and social background. The results of this assessment are submitted to the Youth Justice Court in the form of a written report. While the actual reasons for the assessment and the purpose for which it is intended will vary as determined by the Youth Justice Court, the overall intent is to assist the Court in making a decision about the youth.

Because of the legal framework involved, there are fundamental differences between YFPS forensic assessment and other kinds of psychiatric/psychological assessments conducted in other mental health settings. According to information on the YFPS website, the forensic opinion will not necessarily be in the interests of the youth. Differences between assessment for treatment purposes and for forensic purposes may be summarized under the following four categories:

- **Goal** - The goal of a forensic assessment is to provide a medical, psychiatric or psychological assessment to assist the Court in its deliberations. While treatment issues may emerge in the assessment process, the primary purpose is legal and not medical or psychological.
- **Role** - The role of the forensic examiner is to assist the Court. No therapeutic relationship exists between the forensic examiner and the youth being evaluated.
- **Confidentiality** - Unlike most communications between a "patient" and therapist, the assessments conducted for forensic purposes have limited confidentiality. To be effective, reports must include sufficient personal information about the young person, their family and their social milieu to assist the Court in reaching a decision. Personal information will be given to the Judge, Defense counsel and Crown counsel and an "Executive Summary" will often be given to probation officers assigned to the youth. While the *Youth Criminal Justice Act* has strict provisions regarding dissemination of confidential materials, in practice it has been noted that these "confidential reports" may find their way to persons not originally intended as recipients. The author of the report needs to be sensitive to that possibility.
- **Ethical Issues** - Ethical guidelines for medical, psychiatric and psychological practice rely primarily on a model emphasizing benefit to the person receiving the services. At times, benefit for the patient may be in conflict with other values, such as protection of the public. Within any ethical model, there is a requirement to balance potentially competing values. Forensic practice demands a different weighting

in the balance of the competing values that may meet the interests of the youth and his or her family versus the interests of society and, in particular, the Court's needs. While the interests of the youth being evaluated are generally subordinate to the interests of justice and the Court proceedings, the clinician must always maintain a respect for persons and attempt to balance the interests to minimize any harm to the youth being evaluated.[1]

YFPS Administrative Standards for Section 34 Assessments

As noted above, Section 34 court-ordered assessments done at YFPS on either an outpatient (at a clinic) or inpatient basis (at IAU) are conducted by a multidisciplinary team of health care professionals led by a "qualified person" who is the team lead and responsible for the preparation of the report to court. The team includes psychiatrists, psychologists, physicians, nurses, psychiatric social workers and health care workers.

The type of assessment ordered by the Court will determine the nature of the assessment process (see "Types of Section 34 Assessments" at the end of Appendix B) and will be geared to meeting the needs of the Youth Justice Court and the specific forensic issues raised by the Court.

According to policy, both before the evaluation begins and throughout the assessment process:

- members of the multidisciplinary team are required to provide the youth with sufficient information so that they understand the purpose of the evaluation and the limits on confidentiality of the information
- the youth is to be informed that the report is for the Court and that a copy will be given to the young person, the parent of the young person who is in attendance at the proceedings, any counsel representing the young person and the prosecutor, and
- a copy of the report may also be given to a parent who is not in attendance at the proceedings, if in the opinion of the court the parent is taking an active interest in the proceedings, and to the provincial director or director of a custody centre where the youth is serving their sentence if in the opinion of the court withholding the report would jeopardize the safety of any person.[2]

[1] http://www.mcf.gov.bc.ca/yfps/

[12] Under Section 34 (9), a youth justice court can withhold all or part of a report made in respect of a young person under subsection (1) from a private prosecutor, if disclosure of the report or part, in the opinion of the court, is not necessary for the prosecution of the case and might be prejudicial to the young person. And, under Section 34 (10) the Youth Justice Court can withhold portions of the Section 34 psychological and psychiatric assessment if disclosure would seriously impair the treatment or rehabilitation of the young person or result in serious psychological harm or endanger the life of another. However, despite these provisions, the court may release all or part of a report to a youth, the youth's parents or a private prosecutor if the court is of the opinion that such disclosure is essential to the interests of justice (Section 34(11)). A qualified person, who is of the opinion that a young person held in custody is likely to endanger his or her own life or safety or to endanger the life of, or cause bodily harm to, another person may immediately advise any person who has the care and custody of the young person whether or not the same information is contained in a report.

While a youth's consent to the Section 34 assessment is not required, YFPS indicates its practice is to:

- make every effort to engage the co-operation of the young person and their family
- be aware of sensitive individual and family issues and evaluate to what extent these personal details are essential to the forensic report, and
- be sensitive to the possibility that the report may be disseminated outside the limits of the people listed in the Act.

YFPS standards outline that:

- all forensic assessments it undertakes must be evidence-based
- assessment procedures must be scientifically acceptable and a forensic opinion be based on acceptable clinical standards and sufficient data to justify the conclusions
- if there is insufficient information to allow the "qualified person" to reach a conclusion that is scientifically justifiable, the opinion must be suitably qualified or limited, and
- opinions in controversial areas where there is no scientific consensus will be noted.

The Court is to be informed if a full opinion cannot be reached until further information is obtained.

The YCJA requires that a Section 34 assessment for a youth remanded in custody must be completed within 30 days. YFPS information indicates that, on average, outpatient assessments are completed by YFPS outpatient clinics in about four weeks (assessments can range from two to six weeks). In contrast, inpatient assessments by the IAU are completed within five to seven days on average. However, assessments can range from 24 hours to 14 days depending on the comprehensiveness of the IAU assessment being sought under the court order. The admission process and timing depends on service resources and demands at YFPS at the time.

Types of Section 34 Assessments

- **Release from Custody under Community Supervision** *(Considering an Application under Section 33)* - This evaluation entails assessment regarding the risk for serious criminal violent behaviour and whether the young person can be safely maintained on bail alternatives, such as being placed in the care of a responsible person outside a detention centre. Detention may not be used as a substitute for appropriate mental health services or social or protection services.
- **Hearing – Adult Sentencing** *(Application under Section 71)* - This assessment requires a full evaluation of the maturity, character, background and psychological status of the young person, including a risk evaluation for future violent behaviour.
- **Making or Reviewing a Youth's Sentence** - This assessment involves a full evaluation of the individual's background, character, maturity and social functioning, in addition to psychiatric and psychological status (the most common reason for an assessment).
- **Continuation of Custody** *(Evaluation for Section 104 (1))* - Section 104 requires an evaluation of a youth in custody regarding risk for committing a serious violent offence during the period of release to supervision in the community, and an evaluation as to whether community treatment and supervision would substantially reduce the risk posed by a young person.
- **Conditional Supervision** *(Setting Conditions under Section 105(1) or Making an Order under Section 109(2))* - This evaluation requires a full psychological and social assessment to assess risk of future criminal and/or violent behaviour and whether treatment or social interventions may reduce that risk and recommendations for appropriate conditions of conditional release.
- **Information About a Young Person** *(Disclosure under Subsection 127 (1))* - This assessment involves a risk asessment to determine whether the young person poses a risk of serious harm to other persons such that disclosure of information to specified members of the public may be required.

APPENDIX C

Physical Examination as Part of YFPS IAU Assessment

Under IAU policy and practice, a physical examination is standard procedure for a youth undergoing a psychiatric assessment. Some physical illnesses have psychiatric or psychological manifestations and vice versa. As a result, IAU believes that it is imperative that a youth being assessed by IAU have a physical examination as part of their overall assessment.

The physical examination undertaken by the IAU includes a breast, external genitalia and pelvic examination. Where the youth has had a pelvic examination recently or there are no intervening risk factors, the pelvic examination will be deferred by the IAU physician.

IAU maintains that inclusion of a breast and genital exam is an integral part of a full physical examination. An examination of the breast is an important feature of the physical examination because it is an important part of the overall evaluation of the adolescent. Breast development can gauge delayed or early puberty, either of which can be markers of serious underlying disorders. Abnormalities of the breast can signal a variety of genetic syndromes. Further, an examination of the breast may also reveal issues with self-mutilation and abuse or exploitation.

An examination of the external genitalia is a way to establish a youth's stage of sexual development and is helpful in identifying certain psychiatric conditions that can have impacts on the physical sexual development. In males, some physical problems such as undescended testes, a condition requiring medical intervention, can be discovered and thus treated. Some psychiatric conditions such as anorexia nervosa can result in the loss of secondary sexual characteristics. An examination of the external genitalia can also reveal acute physical problems such as herpes infections, genital warts and other infectious lesions that can be addressed and treated expeditiously. Acute injuries will require assessment and treatment.

Physical Examination Procedures

According to YFPS policy and practice, the medical assessment undertaken by IAU includes the collection of the youth's medical history followed by the physical examination. As part of the admission routine protocol, the medical history and physical examination are normally completed on one visit with a physician (medical doctor on contract with IAU). However, depending on the medical needs and issues of the youth, completion of the medical history and the physical examination can be completed in two or more physician's visits. IAU physicians and nurses are expected to recognize that some youth may require more time to get settled at the IAU. If a youth exhibits anxiety about the physical examination, the physician will complete the medical history and visit the youth later to conduct the physical examination.

It is established IAU practice that all youths receiving a physical examination be accompanied by a same-gender staff chaperon. In all cases the chaperon is either a nurse or a health care worker. Efforts are made to assign a chaperon who has an established therapeutic rapport with the youth. The chaperon is expected to provide additional support to youth, along with information and education on the procedures and may act as their advocate if they have concerns or anxieties about any of the procedures. The chaperon stays with the youth throughout the entire physical examination and it is intended that the youth is never alone with the physician.

YFPS Procedures and Practices for Obtaining Consent

By law, a youth has the right to provide consent to their own health care treatment if a health care provider has (a) explained the treatment and (b) the health care provider is satisfied that the youth understands the foreseeable benefits and risks of the treatment. In the same way, a youth can refuse a medical examination and in that case, a physical examination of the youth will not be undertaken as part of the Section 34 assessment process.

By policy, YFPS staff is required to engage in comprehensive steps to ensure that youth are informed and educated about every procedure or treatment they will receive under a Section 34 assessment in order for the youth to give their informed consent. The goal is to ensure that youth subject to a Section 34 assessment, on either an inpatient or outpatient basis, are clear that they may refuse to provide any piece of information or refuse to consent to any procedure or treatment.

All youth subject to a Section 34 assessment are required to sign a form titled "Orientation to Assessment Process and Limits to Confidentiality", which outlines the assessment process and points out that the youth cannot be assured of confidentiality of the assessment results.[1]

As part of admission and IAU orientation protocol, the IAU nurse is expected to explain the IAU orientation manual to the youth. This manual is intended to provide plain language information on the entire assessment process, and includes reference to the physical examination and the opportunity to have urinalysis, blood work, HIV and STI testing done.

The youth's written consent is required for any treatment and/or diagnostic procedures as well as for the provision of any medication. The physical examination also requires the youth's consent.[2] According to record, youth are advised by staff that they can decline any or all components of the physical examination.

[1] Even in the case of a youth's refusal of a procedure or treatment, YFPS is still required to report to court under a Section 34 assessment and, if a youth has refused to provide information or consent to procedures or treatment, the report would be based on available information and observations made.

[2] Before 2008, consent to the physical examination and its components was verbal; written consent is now required for the physical examination.

YFPS indicates that every effort is made to seek consent at all points and for all aspects of the physical examination including the breast, external genitalia and pelvic exam components. Under existing policy, the physician conducting the examination is required to explain each procedure and seek specific verbal consent of the youth before proceeding. If the client demonstrates any uncertainty about a breast or genital exam, the procedure is not to continue and this is documented on the youth's medical file. If a youth is uncertain about having a breast or genital examination they are to be offered the option of having this procedure at a future physician's visit.

APPENDIX D

Standards and Practices – Other Facilities and Jurisdictions

Provincial Youth Custody Centres

Upon admission to a Youth Custody Centre, all youth receive a health assessment. It is to be performed within 24 hours of admission, or as soon as is practical, for a physician or a registered nurse acting under the direction of a medical practitioner. This health care assessment involves a basic physical, "head-to-toe" examination, including the checking of vital signs and the collection of a medical history. It does not include a breast or genital exam. The purpose of this initial health care assessment is to identify any acute health issues or threats to the youth's health and safety that require immediate medical attention (e.g., acute alcohol withdrawal) as well as to establish a baseline measurement of the youth's health. All information collected is compiled into a written report by the attending physician or registered nurse.

Youth Custody Centres provide ongoing medical services and treatment for youth in custody. The goal is to focus on early intervention and prevention to ensure the health and safety of youth in custody. A range of policies set out the standards and practices for medical services provided by Youth Custody Centres. Those medical services include:

- first aid and/or emergency care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call or clinic
- self- and clinical care involving the treatment of non-emergency medical needs, and
- continuous and isolation care involving ongoing nursing care.

Youth Custody Centres will also provide regular dental check ups and services as well as eye examinations and the provision of corrective lenses.

Where a staff member believes that a youth in custody requires the services of a psychologist or a psychiatrist, they must inform their supervisor who will, in consultation with case management staff, make a referral for psychological or psychiatric services through the nurse. Mental health services for youth in custody are provided by or through YFPS. This includes psychological or psychiatric assessments, treatment and short-term crisis intervention.

Policy requires that the youth's informed consent be obtained in order to proceed with treatment, or where the youth is unable to consent, from the youth's parent or legal guardian. Informed consent is the agreement of the patient to "treatment, examination, or procedures after the patient receives the facts regarding the nature, the consequences, the risks, and the alternatives concerning the proposed treatment, examination or procedure." The youth's written consent is also required before commencing any new prescription medications.

Criminal Code Fitness and Competency Assessments

Section 672.11 of the *Criminal Code* provides a court that has "jurisdiction over the accused in respect of an offence" with the authority to order an assessment of the mental condition of the accused to determine if the accused is fit to stand trial or is suffering from a mental disorder that would absolve them from criminal responsibility. Section 672.121 also provides the B.C. Review Board[1] with limited power to order a mental assessment of an accused person under its jurisdiction. In B.C., such assessments are undertaken by YFPS for youth, and by the Forensic Psychiatric Services Commission, Provincial Health Services Authority, for adults.

It is understood that IAU follows a similar assessment process for the conduction of fitness or competency tests for youth as it does for YCJA Section 34 assessments for youth. These assessments are integrated and holistic and include full medical (including breast and genital) exam as well as psychiatric and psychological examinations. It is understood, based on consultations with a physician who conducts similar tests for adults, that a similar, comprehensive assessment process involving a full physical examination is beneficial for youth as well.

Practices in Other Provincial Facilities and Jurisdictions

The practice of other provincial facilities involved in the assessment and treatment of youth experiencing psychiatric illness or issues was reviewed to determine the approach of these facilities to assessment and whether it included a physical examination.[2] Following is a table providing a summary of each comparable provincial facility and a similarly mandated facility in another province, type of service offered, and the nature of physical examination included in the assessment, if any.

This summary of facilities providing both forensic psychiatric services and general psychiatric and mental health services to youth reveals that several other facilities require a physical examination as part of their assessment process. However, only Ontario's Adolescent Medicine division at the Hospital for Sick Children includes a genital exam as a routine part of a physical examination. Several facilities indicated that if there were a need to undertake a breast or genital exam, generally a separate follow-up appointment would be made with a physician or specialist or through an external medical clinic. Of note, only two of these facilities, in addition to IAU, offer forensic psychiatric services: Alberta Turningpoint Program and Quebec's Adolescent Unit, at Philippe-Pinel Institute.

[6] The B.C. Review Board is an administrative tribunal, established by the Criminal Code of Canada. Its purpose is to make decisions and orders concerning the liberty of individuals whom courts have found to be not criminally responsible for acts committed while they were suffering from a mental disorder, or whose mental disorder makes them unfit to stand trial on criminal charges

[7] To avoid duplication of effort and redundant requests made of other institutions both provincially and extra-provincially, this section is based on background information collected by MCFD for its review of comparable institutions undertaken as part of its own review of clinical practices.

With respect to chaperons, where a physical examination is required, the vast majority of institutions indicated that they require a chaperon and that generally this chaperon be the same sex as the youth. (No facility had a requirement that the physician or examiner be the same sex as the youth.) With respect to the issue of consent to the physical examination, most facilities relied on verbal consent. Only the Maples Adolescent Treatment Centre in British Columbia requires written consent. At Maples, that consent is then followed up with verbal advice and the opportunity to refuse any procedure during the actual examination.

Province	Institution	Type of Service	Nature of Examination			Comment
			Physical	Breast	Genitalia/ Pelvic	
Alberta	Turningpoint Program (Adolescent Psychiatric Assessment and Treatment)	Designated inpatient assessment and treatment program in Alberta for youth who have come into conflict with justice system and who are believed to have a psychiatric illness or behaviour disorder; services include psychiatric assessment for youth in remand and therapy and treatment for youth in custodial care	✓ Same gender chaperon Verbal consent			Breast and genital exams not routinely done; physician uses clinical judgment and practices vary from case to case
Alberta	Outpatient Assessment – Forensic Adolescent Program, Southern Alberta Forensic Psychiatry Services, Calgary Health Region	Services include psychiatric / psychological court-ordered assessments; individual and group therapy, consultation services, outreach mental health services				
British Columbia	Maples Adolescent Treatment Centre, MCFD	Part of the provincial Child and Youth mental health services network providing an array of direct residential and community mental health services to youth experiencing psychiatric and behavioural difficulties; designated under the *Mental Health Act* as a provincial mental health facility	✓ Within 48 hours of admission Same gender chaperon Written consent			Breast and genital exams not routinely done; if need for these tests, and youth consents, separate follow-up appointment set Youth is not alone with physician unless requested by physician Throughout examination, physician further advises youth of nature and purpose of procedure and tests and youth has right to refuse medical treatment and refuse to participate at any point in examination

Province	Institution	Type of Service	Nature of Examination			Comment
			Physical	Breast	Genitalia/ Pelvic	
British Columbia	BC Children's Hospital, Adolescent Psychiatry Inpatient Unit	Provides assessment and brief treatment to youth aged 12 to 17 who experience serious psychiatric symptoms based on referral from community psychiatric care provider; multidisciplinary team of nurses, youth and family counsellors, social workers, psychologists, psychiatrists	✓ Within 24 hours of admission Same gender chaperon Verbal consent			Physical examination is required as part of hospital admission procedures Physical examination does not include breast and genital exams; if necessary, referral to clinic for more in-depth examination
British Columbia	Adolescent Psychiatric Unit (Inpatient), Surrey Memorial Hospital, Fraser Health Authority	Psychiatric unit serving youths between 12 and 18 years providing assessment, stabilization and initial treatment				No physical examination; on admittance have had medical clearance from emergency department or community referral sources
British Columbia	Outpatient Youth Clinic, Surrey Memorial Hospital, Fraser Health Authority	A multidisciplinary clinic that provides services to youth aged 12 to 18 including birth control and education, free pregnancy testing, prenatal care, STD examinations, HIV/ AIDS information, testing and support	✓ Verbal consent			Nurses conduct majority of physical examinations; physician conducts breast, pelvic and STD examinations Chaperons not required
British Columbia	Ledger House, Queen Alexandra Centre for Children's Health, Child, Youth and Family Mental Health Services	Inpatient care for youths aged 13 to 19, providing assessment and mental health treatment services	✓ (baseline) Verbal consent			Nurses responsible for conducting baseline physical examinations; any in-depth physical examinations, including need for breast and pelvic examinations, referred to youth's family physician or medical clinic
Sask	Young Offender Team, Mental Health Services, Saskatoon Health Region	Specialized and unique forensic services delivered on an outpatient basis to youth aged 12 to 18, including Section 34 assessments under YCJA				Because assessments delivered on an outpatient basis no physical examination included as part of assessment

Province	Institution	Type of Service	Nature of Examination – Physical	Nature of Examination – Breast	Nature of Examination – Genitalia/ Pelvic	Comment
Manitoba	Manitoba Adolescent Treatment Centre, Youth Forensic Services, Winnipeg Regional Health Authority	Provides a community-based psychiatric/psychological assessment and brief treatment services to adolescents involved in justice system, including Section 34 assessments, which are generally conducted by psychologists; where court requests a psychiatric assessment, done on contract basis				No physical examination included; does not have the resource
Ontario	Integrated Forensic Program, Royal Ottawa Health Group, and Centre for Addiction and Mental Health	Conducts Section 34 court-ordered assessments for youth on an outpatient basis				No physical examination; no provision for inpatient assessments in Ontario
Ontario	Child and Adolescent Psychiatry Unit, Hotel-Dieu Hospital (associated with Kingston General Hospital)	Provides comprehensive psychiatric services to children and adolescents suffering severe psychiatric mental health issues	✓ Within 24 hours of admission Verbal consent			Physical examination is a general "head-to-toe" assessment – breast and pelvic examination not a routine part of examination; hospitalist will be consulted on any in-depth physical examinations, including need for breast and pelvic examinations A nurse generally accompanies youth to examination; if female physician and female youth, chaperon may not be required
Ontario	Adolescent Medicine, Hospital for Sick Children	Provides a range of services to youth including treatment of eating disorders, outpatient assessment, treatment and management of youth using drugs or alcohol, etc	✓ Within 24 hours of admission Chaperon Consent part of general consent on being admitted to hospital			Physical examinations conducted by emergency room physician or staff psychiatrist in the Inpatient Unit; general practice is to have a nurse in attendance during physical examination Routine physical examination does not include breast or pelvic

Province	Institution	Type of Service	Nature of Examination			Comment
			Physical	Breast	Genitalia/ Pelvic	
Quebec	Adolescent Unit, Philippe-Pinel Institute, Université de Montréal	15-bed maximum security unit that provides assessment and treatment services to male adolescents only using a multidisciplinary model (forensic clinicians will also provide assessments to female youth detained in youth custody centre)	✓ Within 24 hours of admission Chaperon Verbal consent			
Nfld/Lab	Janeway Children's Health and Rehabilitation Centre	General mental health service to youth	✓ Within 24 hours of admission Chaperon Verbal consent			No breast or pelvic included as part of examination (would consult with adolescent gynecologist on such exams and "that would be the prudent thing to do")

APPENDIX E

Independent Panel – Guiding Questions

The following questions were used to guide discussion during the independent panel session:

1. Do you consider a physical examination to be an integral component of a psychiatric assessment?
   a) Should it include a breast examination, genitalia and/or pelvic examination?
   b) How widely understood is this link in the medical community?
2. Is it appropriate for a (forensic psychiatric) custody centre to propose and conduct physical, including breast examination, genitalia and/or pelvic examinations, for
   a) A court-ordered "medical, psychological or psychiatric report"
   b) An assessment of mental condition
   c) General good health of the youth
   d) Protection of other youth in the centre?
3. If the examinations stopped being offered, what are the risks and implications for the youth at the custody centre?
4. If these examinations are appropriate, do you have any suggestions for improving how they should be conducted?
5. Do you think that the consent procedures are valid, given the vulnerabilities of the youth in these circumstances?
6. Are there any suggestions for how to improve the consent procedures?